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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,819	04/28/2005	Rauscher Guenther	30071/40493	6563
4743 7590 06/08/2009 MARSHALL, GERSTEIN & BORUN LLP 233 SOUTH WACKER DRIVE 6300 SEARS TOWER CHICAGO, IL 60606-6357			EXAMINER SINGH, KAVEL	
			ART UNIT 3651	PAPER NUMBER
			MAIL DATE 06/08/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/511,819

Applicant(s)

GUENTHER, RAUSCHER

Examiner

KAVEL P. SINGH

Art Unit

3651

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 and 25-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 and 25-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

Claims 1 and 25 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 1 and 25 contain the limitation of the movable stops can be moved across which was not found in the specification.

Response to Arguments

Applicant's arguments filed 3/20/09 have been fully considered but they are not persuasive. Applicant argues that Aidlin does not teach movable stops across the adjustment pathway, but Aidlin teaches the piston is located within the block for axial movement with respect thereto. The bore extends through the block with its axis in alignment with the axis of the rod and piston. The rod extends through an aperture 52 in the end of the block adjacent to the support means and rails. (C5 L15-19) The axial movement being across the adjustment pathway. Applicant points out that Aidlin teaches a system capable of handling four different size bottles, which in turn means that the stops are movable across the pathway (in the movement of the stops) to preset positions, it doesn't matter if a fifth can be accommodated because the Applicant claims a plurality of movable not a specific number. Therefore the rejection of claims 1-23 and 25-54 stand rejected.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5-9,11-16,18-22,25-30,32,33,35-40,42-44,46,48,50-53 are rejected under 35 U.S.C. 102(b) as being anticipated by Aidlin U.S. Patent No. 5,542,789.

Claims 1,2, and 25, Aidlin teaches at least one guide railing (42) which is adjustable across a direction of conveyance and is operable by at least one actuator drive (60), and a plurality of movable stops (48) that are optionally introducible at one or more preset positions across one or more adjustment pathways of the guide railing (42) to and delimit the at least one guide railing (42) and define various railing positions (C4 L60-61).

Claims 3,4,26, and 27, Aidlin teaches the stops (48) can be moved into the preset positions (Fig. 7-10) by one manually control means, or a combination thereof (between open and closed positions).

Claims 5,29,43, and 46, Aidlin teaches assigned to the linear drive comprises a stop mount attached to the cylinder element of the pneumatic cylinder in the axial direction (C2 L15-17).

Claims 6 and 30, Aidlin teaches the opposing stop has at least two stop faces (Fig. 7-10) facing away from one another as based on the adjustment pathways (C1 L46-48).

Claims 7,8,9, and 32, Aidlin teaches the preset positions (Fig. 7-10) are designed in the form of recesses and are designed in the form of multiple bores in the stop mount (A) set along the adjustment pathways in the axial direction (Fig. 1).

Claims 11,28, and 35, Aidlin teaches the stops (48) are designed as pneumatic cylinders that can be operated by control means.

Claims 12,13, and 33, Aidlin teaches the stops (48) can be screwed into threaded bores (50,62) in the stop mount has an axial bore aligned with the cylinder body (60).

Claim, 14,36, and 38, Aidlin teaches bore (50) is arranged coaxially with the piston rod (46) and the piston rod passes at least partially through the bore.

Claims 15,37, and 40, Aidlin teaches the inside diameter of the bore (50) is greater than the outside diameter of the piston rod (46), thus forming an annular space (Fig. 1) (C5 L13-15 essentially equal so can be interpreted to be greater or equal).

Claims 16,39, and 51, Aidlin teaches the bores (50,62) for accommodating the stops (48) are assigned to the annular space so that the stops (48) pass through the annular space approximately at a right angle to the its longitudinal extent of the annular space when in an engaged or working position.

Claims 18,19, and 42, Aidlin teaches the opposing stop is attached to the piston rod (46) and is guided in the interior of the stop mount.

Claim 20, Aidlin teaches the adjustable guide railings (42) are arranged so they run opposite one another in pairs and parallel to the direction of conveyance conveyor with a distance between the pairs them (Fig. 1).

Claims 21,22, and 50, Aidlin teaches the products (12) to be transported, have a collar (20) by means of which they are transported suspended on two parallel sliding rails (26) which run with a distance there between and are conveyed as suspended items beneath an air guide box (36).

Claim 44, Aidlin teaches the guide railing (42) is operable so that it is adjustable in height by at least one actuator drive (60) longitudinally to the vertical axis of the products being conveyed, with stops (48) which may optionally be arranged in the adjustment path at multiple preset positions (Fig. 7-10) and delineate said path on the vertical adjustment path of the guide railing (42) or the at least one actuator drive (60) and thereby define various railing positions (Fig. 1).

Claims 48 and 52, Aidlin teaches the four of the multiple bores in the stop mount comprises at least two rows with an arrangement of bores (50,62) offset in the axial direction of the stop mount (C5 L25-28).

Claim 53, Aildin teaches the stops (48) are designed as pins (Fig. 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10,17,34,41,47, and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aildin U.S. Patent No. 5,542,789 in view of Leonard U.S. Patent No. 6,305,528.

Claims 10,17,34,41,47, and 49, Aildin teaches the stops (48), but not as Leonard teaches are designed as one of form-fitting screw or screw elements (102,104). It would have been obvious to one of ordinary skill in the art at the time of the invention to use form-fitting screws as taught by Leonard into the invention of Aildin in order to securely fasten the stop to the article.

Claims 31,45,53, and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aildin U.S. Patent No. 5,542,789 in view of Ouellette U.S. Patent No. 6,318,935. Claims 31,45, and 54, Ailden teaches preset positions (Fig. 7-10) are assigned to the linear drive and formed as a stop mount attached to the cylinder element of the pneumatic cylinder (60) in the axial direction the linear drive, but does not teach as Ouellette is a double-acting pneumatic cylinder (122) having a cylinder element which has a cylinder body (122) and a piston rod (124) (C8 L39-42). It would have been obvious to one of ordinary skill in the art at the time of the invention to a double-acting cylinder as taught by Ouellette into the invention of Aildin in order to have extra control over the stop and securely fasten the article in the cylinder.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Kavel P. Singh whose telephone number is (571) 272-2362. The examiner can normally be reached on M-F 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KPS

/Gene Crawford/
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